IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.MC.No. 744 of 2007()

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CP.33/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MANNARKAD

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PETITIONER: ACCUSED

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MUJEEB, S/O MAYAMIKUTTY,
NOORUKANDAN HOUSE, ARIYOOR P.O.,
PALAKKAD.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

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STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, MANNARKKAD POLICE STATION
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J**

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**Crl.M.C.No.744 of 2007**

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Dated this the 20th day of March, 2007

**ORDER**

The petitioner is an accused in a prosecution under Section 302 I.P.C. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner was not available before the learned Magistrate. The learned Magistrate has hence committed the co-accused to the Court of Session. The case against the petitioner has been split up and is now pending as Committal Proceedings No.33 of 2006 before the learned Magistrate.

2. The petitioner submits that on account of reasons beyond his control, he could not earlier appear before the learned Magistrate. He has not received summons also. He is willing to appear before the learned Magistrate. The petitioner apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has hence come to this Court with a prayer that directions may be issued under Section 482 Cr.P.C to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. I do not find any reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the

circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are exceptional and compelling reasons .

**(R.BASANT, JUDGE)**

rtr/-